

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
BEVERLY CRAWFORD,

Plaintiff,

-against-

NAILS ON 7TH BY JENNY INC, individually
d/b/a JENNY'S SPA, NAILS ON 7TH II BY JENNY
INC., individually and d/b/a JENNY'S SPA, and
NGUYEN BUI, individually,

Defendants,

-----X
Ramos, U.S.D.J.

18-CV-09849 (ER)

ORDER TO SHOW CAUSE
TO VACATE JUDGMENT

Upon the Affidavit of NGUYEN BUI, sworn to July , 2019 and the Memorandum of Law by Andrew C Laufer sworn to July 2019 and the motions of NAILS ON 7TH BY JENNY INC, individually d/b/a JENNY'S SPA, NAILS ON 7TH II BY JENNY INC., individually and d/b/a JENNY'S SPA, to set aside the default judgment entered herein against them on January 18, 2019 pursuant to F.R.C.P. 55(c) and 60 (b)(1) and (4), and upon consideration of the exhibits annexed hereto and the memorandum of law submitted, it is hereby

ORDERED, that Plaintiff and Martin A. Beinstock as Marshal for the City of New York as agent for the plaintiff seeking seizure of assets to satisfy the aforementioned judgment, SHOW CAUSE before the Honorable Edgardo Ramos in Courtroom 619 of the Thurgood Marshall United States Courthouse, 40 Foley Square, New York, NY 10007, on _____, 2019 at _____ o'clock, or as soon as thereafter as counsel may be heard, why an order should not be issued:

a) Pursuant to Federal Rule of Civil Procedure 55(c) and 60(b)(1) and (4) vacating the default in answering and the default judgment entered into against all defendants on January 18, 2019; and

b) Allowing the defendants to appear, answer, or move in this action so the issues before the Court may be addressed upon the merits; and it is further

ORDERED, that pending the hearing and determination of this motion, pursuant to F.R.C.P. 65 (b), the Plaintiff and Martin A. Beinstock as Marshal for the City of New York be temporarily restrained from;

a) enforcing or collecting upon the judgment
b) seizing or holding any assets of the defendants
c) entering upon and/or taking possession or control, managing or interfering with the management, operation, or ownership of any of the defendant's business establishments and any appurtenances thereto.

ORDERED, that a copy of this Order to Show Cause and supporting papers upon which it is granted be served upon Plaintiff's counsel, Gregory William Kirschenbaum at Phillips & Associates, Attorney at Law, PLLC, 45 Broadway, Ste. 620, New York, New York 10006 by _____, 2019 by email and overnight mail delivery and that such service shall be deemed good and sufficient service hereof.

Dated: New York, New York
July 2019

So Ordered

Hon. Edgardo Ramos, U.S.D.J.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

18-CV-09849 (ER)

-----X
BEVERLY CRAWFORD,

Plaintiff,

AFFIDAVIT IN SUPPORT
OF ORDER TO SHOW
CAUSE

-against-

NAILS ON 7TH BY JENNY INC, individually
d/b/a JENNY'S SPA, NAILS ON 7TH II BY JENNY
INC., individually and d/b/a JENNY'S SPA, and
NGUYEN BUI, individually,

Defendants,

-----X
STATE OF NY)
COUNTY OF KINGS)

NGUYEN BUI, being duly sworn deposes and says:

1. I am the President and sole shareholder of NAILS ON 7TH BY JENNY INC, individually d/b/a JENNY'S SPA, NAILS ON 7TH II BY JENNY INC., individually and d/b/a JENNY'S SPA and the individually named defendant in the within action and I have personal knowledge of the facts set forth herein. This affidavit is submitted in support of all defendants Order to Show Cause and its motion pursuant to F.R.C.P. 55(c) and 60 (b)(1) and (4) Federal Rule of Civil Procedure 55(c) and 60(b)(1) and (4) and vacating the default in answering and the default judgment ("the judgment" attached hereto as Exhibit A) entered into against all defendants on January 18, 2019 and allowing the defendants to appear, answer, or move in this action so the issues before the Court may be addressed upon the merits.

2. Further, all defendants seek a Temporary Restraining Order pursuant to F.R.C.P. 65 (b), for the Plaintiff and Martin A. Beinstock, as Marshal for the City of New York be temporarily restrained from;

- a) enforcing or collecting upon the judgment
- b) seizing or holding any assets of the defendants
- c) entering upon and/or taking possession or control, managing or interfering with the management, operation, or ownership of any of the defendant's business establishments and any appurtenances thereto.

3. Marshal Beinstock recently served a Notice of Levy & Sale upon my business which states that he intends enforcement of the aforementioned judgment against my company and its assets on August 3, 2019. (See Exhibit B attached hereto.)

4. Marshal Beinstock's seizure and sale of my business's assets will material and irrevocably effect my business from functioning and producing any income.

5. The judgment was entered against me but I was never personally nor properly served. Further, the affidavit of service stating a copy of the complaint was given to an individual by the name of Rosa Fernandez. I do not know this person nor was I ever given a copy of the complaint by anyone at my place of work. (See Exhibit C attached hereto.)

6. I had no notice of the pendency of this action until the service of Marshal Beinstock's Notice of Levy & Sale.

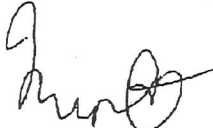
7. Further, the affidavit of service for my corporation, NAILS ON 7TH BY JENNY INC, states that it was served via the Secretary of State for the State of New York but neither I nor my corporation ever received a copy. (See Exhibit D attached hereto.)

8. It also does not appear the plaintiff ever attempted to perfect service against the named d/b/a's.

9. Neither I, my corporation, nor any names my company may have been doing business under have been properly served or served at all, and I assert as a defense that the Court had no jurisdiction over myself, my company, or any of the d/b/a's.

10. I respectfully request the Court afford myself and the remaining defendants an opportunity to defend this matter upon the merits since, at a minimum, your affirmant respectfully asserts that any perceived default was "excusable". Please see the defendants Proposed Answer attached hereto as Exhibit E.

11. For the reasons set forth herein, I respectfully request the issuance of this Order to Show Cause and the relief sought herein, an order vacating the default judgment and default in appearing and responding to this lawsuit, and the issuance of a temporary restraining order pending this decision, together with such other and further relief as the Court deems just and proper.

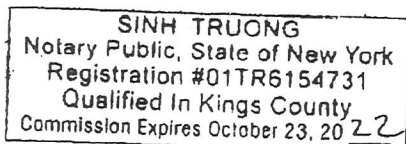


NGUYEN BUI

Sworn to before me this day
of July, 2019



Notary Public



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

18cv09849(ER)

BEVERLY CRAWFORD,

Plaintiff,

-against-

NAILS ON 7th BY JENNY INC., individually and
d/b/a JENNY'S SPA, NAILS ON 7th II BY JENNY
INC., individually and d/b/a JENNY'S SPA, and
NGUYEN BUI, individually,

Defendants,

ORDER TO SHOW CAUSE TO VACATE JUDGEMENT

LAW OFFICE OF ANDREW C. LAUFER

Attorney(s) for Defendants

Office and Post Office Address
255 W. 36th Street, Suite 1104
New York, NY 10018

Tel: (212) 422 1020

Fax: (212) 422 1069

To:

Signature (Rule 130-1.1-a)

Print name beneath

Service of a copy of the within is hereby admitted.

Dated:

Attorney(s) for:

PLEASE TAKE NOTICE:

☐ NOTICE OF ENTRY

that the within is a (certified) true copy of a
duly entered in the office of the clerk of the within named court on

☐ NOTICE OF SETTLEMENT

that an order of which the within is a true copy
will be presented for settlement to the HON one of the judges of the
within named Court at

on at M.

Dated,

Yours, etc.

Law Office of Andrew C. Laufer